

LEGISLATIVE BILL 579

Approved by the Governor April 1, 1993

Introduced by Hall, 7; Warner, 25; Chambers, 11

AN ACT relating to the Legislature; to amend sections 84-304.03 and 84-712.05, Reissue Revised Statutes of Nebraska, 1943, and sections 50-401.01, 81-1120.27, and 84-304, Revised Statutes Supplement, 1992; to require audits as prescribed; to provide powers and duties for the Executive Board of the Legislative Council; to change provisions relating to use of the state's telecommunications systems and confidentiality of certain records; to harmonize provisions; to repeal the original sections; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,

Section 1. It shall be the sole responsibility of the Executive Board of the Legislative Council to provide for an audit of the books, accounts, vouchers, records, and expenditures of the Legislature. A certified audit shall be made at such time as the board shall determine and shall be made at least once during each biennium.

The Executive Board of the Legislative Council may contract with the Auditor of Public Accounts or contract with a licensed public accountant or certified public accountant or firm of such accountants to conduct the audit and shall be responsible for the cost of the audit pursuant to the contract. The original copy of the auditor's report shall be filed in the Legislature's Accounting and Budgeting Office, and one copy shall be filed with the Clerk of the Legislature. The auditor's report shall be considered a public record for purposes of sections 84-712 to 84-712.09.

If the person the Executive Board of the Legislative Council has contracted with pursuant to this section has reason to believe that statutes relating to the use of public property for personal use are being violated, he or she shall provide such information and records to the Executive Board of the Legislative Council for confidential review.

The records made available to the person conducting an audit pursuant to this section and the workpapers compiled by the person conducting the audit shall not be considered public records for purposes of sections 84-712 to 84-712.09.

The Executive Board of the Legislative Council shall, at the conclusion of the audit performed, prepare a report detailing the amount of expenditures of public funds made by each member of the Legislature, the total amount of long-distance phone calls made by each member of the Legislature, and the total amount of such calls designated by a member as sensitive or confidential in nature. Such report shall be

reviewed by the member of the Legislature for accuracy and correctness. After such review, the report, including the information relating to long-distance phone calls, shall be made public by the Executive Board of the Legislative Council.

For purposes of this section, Legislature shall include the Legislative Council, the Executive Board of the Legislative Council, and members of the Legislature.

Sec. 2. That section 50-401.01, Revised Statutes Supplement, 1992, be amended to read as follows:

50-401.01. (1) The Legislative Council shall have an executive board, to be known as the Executive Board of the Legislative Council, which shall consist of a chairperson, a vice-chairperson, and six members of the Legislature, to be chosen by the Legislature at the commencement of each regular session of the Legislature when the speaker is chosen, and the Speaker of the Legislature. The Legislature at large shall elect two of its members from legislative districts Nos. 1, 2, 15, 16, 21, 23 to 30, 32, 34, 35, and 46, two from legislative districts Nos. 3 to 14, 20, 31, 39, and 45, and two from legislative districts Nos. 17 to 19, 22, 33, 36 to 38, 40 to 44, and 47 to 49. The Chairperson of the Committee on Appropriations shall serve as a nonvoting ex officio member of the executive board whenever the board is considering fiscal administration.

(2) The executive board shall:

(a) Supervise all services and service personnel of the Legislature and may employ and fix salaries for such personnel as may be needed to carry out the intent and activities of the Legislature or of the board, unless otherwise directed by the Legislature; and

(b) Appoint persons to fill the positions of Legislative Fiscal Analyst, Director of Research, and Revisor of Statutes. The persons appointed to these positions shall have training and experience as determined by the executive board and shall serve at the pleasure of the executive board. Their respective salaries shall be set by the executive board.

(3) Notwithstanding any other provision of law, the executive board may contract to obtain legal, auditing, accounting, or other professional services or advice for or on behalf of the executive board, the Legislative Council, the Legislature, or any member of the Legislature. The providers of such services or advice shall meet or exceed the minimum professional standards or requirements established or specified by their respective professional organizations or licensing entities or by federal law. Such contracts, the deliberations of the executive board with respect to such contracts, and the work product resulting from such contracts shall not be subject to review or approval by any other entity of state government.

Sec. 3. That section 81-1120.27, Revised Statutes Supplement, 1992, be amended to read as follows:

81-1120.27. (1) The facilities of the state's telecommunications systems are provided for the conduct of state business. In addition, the state's telecommunications systems may be used by state

employees and officials for local calls and ~~long-distance~~ long-distance calls to children at home, teachers, doctors, day care centers, and baby sitters, to family members to inform them of unexpected schedule changes, and for other essential personal business. The use of the state's telecommunications systems for essential personal business shall be kept to a minimum and shall not interfere with the conduct of state business. Essential personal ~~long-distance~~ long-distance calls shall be either collect, charged to a third-party, nonstate number, or charged to a personal credit card.

(2) A member of the Legislature, while engaged in legislative business, may make personal long-distance calls on the state telecommunications system or by using his or her state credit card. At the end of every month upon the member's receipt of his or her long-distance call record, the personal long-distance calls shall be designated by the member and the member billed for such calls. Reimbursement to the state for such personal long-distance calls by the member shall be made within thirty days from the date of designation.

(3) A member of the Legislature, at his or her own sole discretion, may designate any long-distance call as sensitive or confidential in nature. If a long-distance call is designated as sensitive or confidential in nature, any long-distance call record used in an audit shall contain only the date the long-distance call was made and the cost of the call. In no case shall the person conducting the audit have access to a long-distance call number designated as sensitive or confidential in nature by the member without the written consent of the member. No calls made to or by a member of the Legislature which are sensitive or confidential in nature shall be required to be disclosed except that such calls shall be so designated by the member, and only the amount of the call and such designation shall be made available to a person conducting an audit.

For purposes of this subsection, sensitive or confidential in nature shall mean that either the member of the Legislature or the caller would reasonably expect that the nature or the content of the call would not be disclosed to another person without the consent of the member and the caller.

Sec. 4. That section 84-304, Revised Statutes Supplement, 1992, be amended to read as follows:

84-304. (1) It shall be the duty of the Auditor of Public Accounts:

(+) (a) To give information in writing to the Legislature, whenever required, upon any subject relating to the fiscal affairs of the state or ~~in~~ with regard to any duty of his or her office;

(2) (b) To furnish offices for himself or herself and all fuel, lights, books, blanks, forms, paper, and stationery required for the proper discharge of the duties of his or her office;

(3)(a) (c)(i) To examine or cause to be examined, at such time as he or she shall determine, books, accounts, vouchers, records, and expenditures of all state officers, state bureaus, state boards, state commissioners, the state library, societies and associations supported

by the state, state institutions, state colleges, and the University of Nebraska, except when required to be performed by other officers or persons, ~~(b)~~ (ii) to examine or cause to be examined, at the expense of the political subdivision, when the Auditor of Public Accounts determines such examination necessary or when requested by the political subdivision, the books, accounts, vouchers, records, and expenditures of an agricultural association formed under Chapter 2, article 20, county agricultural society, joint airport authority formed under Chapter 3, article 7, city or county airport authority, development district, regional council, drainage district, fire protection district, health district, historical society, hospital authority or district, county hospital, housing authority, irrigation district, regional, county, or municipal library, community mental health center, railroad transportation safety district, rural water district, ~~or~~ township, or the Wyuka Cemetery, and ~~(e)~~ (iii) to report promptly to the Director of Administrative Services and the appropriate standing committee of the Legislature the fiscal condition shown by such examinations, including any irregularities or misconduct of officers or employees, any misappropriation or misuse of public funds or property, and any improper system or method of bookkeeping or condition of accounts. The Auditor of Public Accounts shall appoint two assistant deputies ~~(†)~~ (A) whose entire time shall be devoted to the service of the state as directed by the auditor, ~~(‡)~~ (B) who shall be certified public accountants with at least five years' experience, ~~(‡‡)~~ (C) who shall be selected without regard to party affiliation or to place of residence at the time of appointment, ~~(↔)~~ (D) who shall promptly report in duplicate to the auditor the fiscal condition shown by each examination, including any irregularities or misconduct of officers or employees, any misappropriation or misuse of public funds or property, and any improper system or method of bookkeeping or condition of accounts, and it shall be the duty of the auditor to file promptly with the Governor a duplicate of such report, and ~~(↔)~~ (E) who shall qualify by taking an oath which shall be filed in the office of the Secretary of State; and

(4) (d) Conduct audits and related activities for state agencies, political subdivisions of this state, or grantees of federal funds disbursed by a receiving agency on a contractual or other basis for reimbursement to assure proper accounting by all such agencies, political subdivisions, and grantees for funds appropriated by the Legislature and federal funds disbursed by any receiving agency. The Auditor of Public Accounts may contract with any political subdivision to perform the audit of such political subdivision required by or provided for in section 23-1608 or 79-2210.04 or this section and charge the political subdivision for conducting the audit. The fees charged by the auditor for conducting audits on a contractual basis shall be in an amount sufficient to pay the cost of the audit. The fees remitted to the auditor for such audits and services shall be deposited in the Auditor of Public Accounts Cash Fund.

(2) Nothing in this section shall be construed to authorize or require the Auditor of Public Accounts to perform any auditing functions relating to the Legislature, the Legislative Council, the Executive

Board of the Legislative Council, or any member of the Legislature.

Sec. 5. That section 84-304.03, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

84-304.03. (1) The Auditor of Public Accounts shall establish minimum standards for all persons identified as auditors or who conduct audits of any agency of state government or of any political subdivision, except a village. Such standards shall be established to achieve the goal of assuring a proper level of competency in auditing and shall be distributed to all agencies of state government and all political subdivisions, except villages. No agency of state government or political subdivision, except a village, shall employ any person as an auditor who fails to meet such minimum standards.

(2) For purposes of this section, agency of state government shall not include the Legislature, the Legislative Council, the Executive Board of the Legislative Council, or any member of the Legislature.

Sec. 6. That section 84-712.05, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

84-712.05. The following records, unless publicly disclosed in an open court, open administrative proceeding, or open meeting; or disclosed by a public entity pursuant to its duties, may be withheld from the public by the lawful custodian of the records:

(1) Personal information in records regarding a student, prospective student, or former student of any tax-supported educational institution maintaining such records, other than routine directory information;

(2) Medical records, other than records of births and deaths, in any form concerning any person, and also records of elections filed under section 44-2821;

(3) Trade secrets, academic and scientific research work which is in progress and unpublished, and other proprietary or commercial information which if released would give advantage to business competitors and serve no public purpose;

(4) Records which represent the work product of an attorney and the public body involved which are related to preparation for litigation, labor negotiations, or claims made by or against the public body; or which are confidential communications as defined in section 27-503;

(5) Records developed or received by law enforcement agencies and other public bodies charged with duties of investigation or examination of persons, institutions, or businesses, when the records constitute a part of the examination, investigation, intelligence information, citizen complaints or inquiries, informant identification, or strategic or tactical information used in law enforcement training;

(6) Appraisals or appraisal information and negotiation records, concerning the purchase or sale, by a public body, of any interest in real or personal property, prior to completion of the purchase or sale;

(7) Personal information in records regarding personnel of public bodies other than salaries and routine directory information;

(8) Information solely pertaining to protection of the physical security of public property such as guard schedules or lock combinations;

(9) With respect to public utilities, personally identified private citizen account payment information, credit information on others supplied in confidence, and customer lists;

(10) Records or portions of records kept by a publicly funded library which, when examined with or without other records, reveal the identity of any library patron using the library's materials or services; and

(11) Correspondence, memoranda, and records of telephone calls related to the performance of duties by a member of the Legislature. The lawful custodian of such correspondence, memoranda, and records of telephone calls, whether created prior to, on, or after the effective date of this act, upon approval of the Executive Board of the Legislative Council, shall release such correspondence, memoranda, and records of telephone calls which are not designated as sensitive or confidential in nature pursuant to subsection (3) of section 81-1120.27 to the person the Executive Board of the Legislative Council has contracted with pursuant to section 1 of this act. A member's correspondence, memoranda, and records of telephone calls related to the performance of his or her legislative duties shall only be released to any other person with the explicit approval of the member.

Sec. 7. That original sections 84-304.03 and 84-712.05, Reissue Revised Statutes of Nebraska, 1943, and sections 50-401.01, 81-1120.27, and 84-304, Revised Statutes Supplement, 1992, are repealed.

Sec. 8. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.

LEGISLATIVE BILL 579A

Approved by the Governor April 1, 1993

Introduced by Hall, 7

AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 579, Ninety-third Legislature, First Session, 1993; to reduce an appropriation; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,

Section 1. There is hereby appropriated \$10,000 from the General Fund for FY1993-94 to the Legislative Council, for Program 122, to aid in carrying out the provisions of Legislative Bill 579, Ninety-third Legislature, First Session, 1993.

Sec. 2. There is hereby appropriated \$10,000 from the Cooperative Audit Cash Fund for FY1993-94 to the Auditor of Public Accounts, for Program 525, to aid in carrying out the provisions of Legislative Bill 579, Ninety-third Legislature, First Session, 1993.

Sec. 3. The General Fund appropriation to the Auditor of Public Accounts, for Program 506, for FY1993-94 is hereby reduced by \$10,000.

Sec. 4. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.